

Opinion of the Court.

TOLEDO, ST. LOUIS & KANSAS CITY RAILROAD
COMPANY v. CONTINENTAL TRUST COMPANY.

ROSE v. CONTINENTAL TRUST COMPANY.

PETITIONS FOR CERTIORARI TO THE CIRCUIT COURT OF APPEALS
FOR THE SIXTH CIRCUIT.

Nos. 500, 501. Submitted January 22, 1900. — Decided January 29, 1900.

Clerks of the Circuit Court of Appeals, having prepared the records on which causes are heard therein for the printer, indexed, and supervised the printing of the same, and distributed the printed copies thereof, and been paid therefor, may certify one of such copies for use on applications to this court for certiorari.

The reproduction of transcripts, in manuscript or in print, under such circumstances, is not required.

THE statement of the case is in the opinion of the court.

Mr. James D. Springer, Mr. F. Spiegelberg and Mr. John Ford for the Toledo, St. Louis &c. Railroad Company.

Mr. John S. Miller for Rose.

Mr. E. C. Henderson, Mr. Henry Crawford and Mr. Willard Parker Butler for the Continental Trust Company.

MR. CHIEF JUSTICE FULLER delivered the opinion of the court.

These petitions for certiorari were accompanied by a motion for an order dispensing with the authentication and certification by the clerk of the Circuit Court of Appeals for the Sixth Judicial Circuit of the transcript of the record of the Circuit Court of the United States for the Northern District of Ohio, on which the appeals mentioned in the petitions were heard and submitted to and decided by said Circuit Court of Appeals. The clerk of the Circuit Court of Appeals has certified the transcript of the record and proceedings in that court, "except the transcripts from the Circuit Court, and except

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also the printed briefs of counsel filed in my office in said causes." It appears that the transcript of record from the Circuit Court was duly certified by the clerk of the Circuit Court, was filed in the Circuit Court of Appeals, and thereafter was printed under the supervision, direction and control of the clerk of the Circuit Court of Appeals under and pursuant to the rules of that court, and that after the decision of the cases there, which had been heard and decided on one record, petitioners requested the clerk to certify, for the purpose of these applications, the transcript so printed under his supervision without requiring petitioners to pay the entire cost of a reproduction of the same in manuscript, but that the clerk refused to make any deduction by reason of the premises, and insisted that he had no power or authority so to do.

Under the third subdivision of rule 37 of this court, where application is made for certiorari under section six of the judiciary act of March 3, 1891, it is provided that "a certified copy of the entire record of the case in the Circuit Court of Appeals shall be furnished to this court by the applicant, as part of the application."

The table of fees and costs in the Circuit Court of Appeals, established by this court in pursuance of the act of Congress of February 19, 1897, 169 U. S. 740, provides that the clerks of the Circuit Courts of Appeals may charge, among other items, for:

Affixing a certificate and a seal to any paper.....	\$1 00
Preparing the record for the printer, indexing the same, supervising the printing and distributing the copies, for each printed page of the record and index.....	25
Making a manuscript copy of the record, when required by the rules, for each one hundred words (but nothing in addition for supervising the printing).....	20

The record in these cases having been prepared for the printer, indexed, the printing supervised, and copies thereof distributed by the clerk of the Circuit Court of Appeals, and the clerk having been paid therefor, we are of opinion that

Counsel for Roberts.

our rule would have been fully complied with by the certificate of that clerk to one of the printed copies which he had so prepared, indexed, supervised and distributed, and which he, therefore, knew was an accurate transcript of the record from the Circuit Court; and, as it is shown, and is not denied, that the printed copies furnished us are in fact correct copies of the Circuit Court record, we have treated them as if that record had been duly certified to us by the clerk of the Circuit Court of Appeals.

The applications for certiorari are

Denied.